

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Document #

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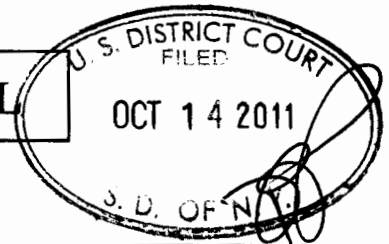
REECE

U.S.C.A. # _____

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U.S.D.C. # 10 - cv - 2901**MARC ECKO UNLTD., et al**JUDGE : Jed S. RakoffDATE : October 14, 2011

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME) : THOMAS R. PISARCZYK
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DISTRICT COURT DOCKET ENTRIES -----

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CLERK'S CERTIFICATE	
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ONLY CIRCLED DOCUMENTS ARE INCLUDED	
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(☒) ORIGINAL RECORD

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 14 TH Day of October, 2011

CLOSED, APPEAL, CASREF, PRO-SE

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:10-cv-02901-JSR -DCF

Reece v. Marc Ecko Unltd. et al
Assigned to: Judge Jed S. Rakoff
Referred to: Magistrate Judge Debra C. Freeman
Demand: \$381,000
Cause: 17:501 Copyright Infringement

Date Filed: 04/05/2010
Date Terminated: 09/09/2011
Jury Demand: None
Nature of Suit: 820 Copyright
Jurisdiction: Federal Question

Date Filed	#	Docket Text
04/05/2010	<u>1</u>	DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS.(IFP GRANTED) Document filed by Daniel Reece.(ama) (Entered: 04/15/2010)
04/05/2010	<u>2</u>	COMPLAINT against Marc Ecko Unltd., Marc Ecko Enterprises, et al, Foundation 9, Sony Corporation et al, Atari Inc., Infogrames Entertainment et al, Microsoft, Sean "Diddy" Combs Bad Boy Worldwide Entertainment et al. Document filed by Daniel Reece.(ama) (Entered: 04/15/2010)
04/05/2010		Magistrate Judge Debra Freeman is so designated. (ama) (Entered: 04/15/2010)
04/05/2010	<u>3</u>	60 DAYS ORDER. The Court hereby Grants plaintiff's request to proceed in forma pauperis and directs plaintiff to submit an amended complaint within sixty (60)days of this Order as detailed below. Accordingly, plaintiff is hereby directed to file an Amended Complaint containing the information specified above. The Amended Complaint must be submitted to this Court's Pro-Se Office within sixty(60)days of the date of this Order, be captioned as an "Amended Complaint" and bear the same docket number as this Order. A copy of this Order must be attached to the Amended Complaint. Plaintiff is advised that his Amended Complaint will completely replace his original one. No summons will issue at this time, and all further proceedings shall be stayed for sixty(60)days or until plaintiff has complied with this order. If plaintiff fails to comply with the time allowed, the complaint shall be dismissed. Once submitted, the Amended Complaint shall be reviewed for substantive sufficiency, and then, if proper, shall be reassigned to a district judge in accordance with the procedures of the Clerk's Office. If the case is reassigned, a copy of this Order shall be served with the summons and Amended Complaint. The Court certifies pursuant to 28 U.S.C. 1915(a)(3) that any appeal from this Order would not be taken in good faith. SO ORDERED. (Signed by Judge Loretta A. Preska on 4/05/10) (ama) (Entered: 04/15/2010)
04/05/2010		Mailed notice to Register of Copyrights to report the filing of this action. (ama) (Entered: 04/15/2010)
06/03/2010	<u>4</u>	AMENDED COMPLAINT against Foundation 9 Entertainment, Sean 'Diddy' Combs Bad Boy Entertainment (Worldwide) et al, Marc Ecko Unltd., Marc Ecko Enterprises, et al, Sony Corporation et al, Atari Inc., Infogrames Entertainment et al, Microsoft amending 2 Complaint.Document filed by Foundation 9 Entertainment, Daniel Reece. Related document: 2 Complaint, filed by Daniel Reece.(mro) (Entered: 06/04/2010)
06/07/2010	<u>5</u>	NOTICE OF CASE REASSIGNMENT to Judge Jed S. Rakoff. Judge Loretta A. Preska is no longer assigned to the case. (jnm) (Entered: 06/07/2010)
06/07/2010		Mailed notice re: 5 Notice of Case Assignment/Reassignment to the attorney(s) of record. (jnm) (Entered: 06/07/2010)
06/14/2010	<u>6</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e., motion requiring a Report and Recommendation). Referred to Magistrate Judge Debra C. Freeman. (Signed by Judge Jed S. Rakoff on 6/12/2010) (tro) (Entered: 06/14/2010)
06/28/2010		FRCP 4 (Service Package Mailed) to litigant at the address noted on complaint on 6/28/2010 via Federal Express AIRBILL # 8696 5974 4056. The service package included: an original summons, copies of the summons, a certified In Forma Pauperis Application (IFP), copies of the IFP, complaint and United States Marshal (U.S.M.-285) forms were provided for each litigant a pro se handbook, change of address postcards, Judge's individual rules, instructions on how to file a motion and opposition, instructions on filing an amended complaint, application for counsel, a consent to proceed before a Magistrate Judge. (mbe) (Entered: 06/29/2010)
06/28/2010		SUMMONS ISSUED as to Sean 'Diddy' Combs Bad Boy Entertainment (Worldwide) et al, Foundation 9 Entertainment, Marc Ecko Unltd., Marc Ecko Enterprises, et al, Sony Corporation et al, Atari Inc., Infogrames Entertainment et al, Microsoft. (mbe) (Entered: 06/29/2010)
09/20/2010	<u>7</u>	ORDER, as stated on the record, that if Plaintiff wishes to file a Second Amended Complaint, he should do so no later than November 15, 2010. SO ORDERED. (Amended Pleadings due by 11/15/2010.) (Signed by Magistrate Judge Debra C. Freeman on 9/17/2010) Copies Sent By Chambers. (jmi) (Entered: 09/20/2010)
10/05/2010	<u>8</u>	ORDER: This Court having held a conference in this case on 9/16/2010, it is hereby ORDERED, as stated on the record, that if Plaintiff wishes to file a Second Amended Complaint, he should do so no later than 10/15/2010. (Signed by Magistrate Judge Debra C. Freeman on 10/5/2010) Copies Mailed By Chambers. (ab) (Entered: 10/05/2010)
10/15/2010	<u>9</u>	SECOND AMENDED COMPLAINT amending 4 30/60 Days Amended Complaint, against Atari, Infogrames Entertainment et al, Marc Ecko Enterprises, et al, Marc Ecko Unltd., Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC, Sony Corporation et al. Document filed by Daniel Reece. Related document: 4 30/60 Days Amended Complaint, filed by Foundation 9 Entertainment, Daniel Reece.(mbe) (Entered: 10/20/2010)
10/20/2010		AMENDED SUMMONS ISSUED as to Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (rmj) (Entered: 10/21/2010)
10/21/2010		FRCP 4 (Service Package Mailed) to plaintiff at the address noted on the complaint/court's docket on 10/21/10 via Federal Express AIRBILL # 873199549787. The service package included: an original amnded summons, copies of the summons, a certified Order granting In Forma Pauperis (IFP), copies of the Order, complaint, and United States Marshal (U.S.M.-285) forms. (rmj) (Entered: 10/21/2010)
10/22/2010	<u>10</u>	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE UNEXECUTED as to Microsoft. Attempted Service of Summons and 30/60 Days Amended Complaint. Service was attempted on 10/5/10. Document filed by Daniel Reece. (mro) (Entered: 10/25/2010)
10/28/2010	<u>11</u>	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and 30/60 Days Amended Complaint, served. Atari served on 10/6/2010, answer due 10/27/2010. Service was accepted by Ms. K.J. Kelle. Document filed by Daniel Reece. (mro) (Entered: 10/29/2010)
10/28/2010	<u>12</u>	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and 30/60 Days Amended Complaint, served. Infogrames Entertainment et al served on 10/6/2010, answer due 10/27/2010. Service was accepted by Kristen J. Kelle. Document filed by Daniel

		Reece. (mro) (Entered: 10/29/2010)
10/28/2010	13	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and 30/60 Days Amended Complaint, served. Sony Corporation et al served on 10/6/2010, answer due 10/27/2010. Service was accepted by Mr. David. Document filed by Daniel Reece. (mro) (Entered: 10/29/2010)
10/28/2010	14	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and 30/60 Days Amended Complaint, served. Marc Ecko Unltd. served on 10/6/2010, answer due 10/27/2010. Service was accepted by Mr. Esposito. Document filed by Daniel Reece. (mro) (Entered: 10/29/2010)
10/28/2010	15	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and 30/60 Days Amended Complaint, served. Marc Ecko Enterprises, et al served on 10/6/2010, answer due 10/27/2010. Service was accepted by Mr. Esposito. Document filed by Daniel Reece. (mro) (Entered: 10/29/2010)
10/28/2010	16	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE UNEXECUTED as to Sean 'Diddy' Combs Bad Boy Entertainment (Worldwide) et al. Attempted Service of Summons and 30/60 Days Amended Complaint, Service was attempted on 10/6/10. Document filed by Daniel Reece. (mro) (Entered: 10/29/2010)
11/10/2010	17	STIPULATION AND ORDER: The undersigned attorneys hereby acknowledge receipt and accept service of the Second Amended Complaint on behalf of the following entities as set forth. The last date for Defendants to answer, move or otherwise respond to the Second Amended Complaint shall be December 20, 2010. The Second Amended Complaint supersedes the Amended Complaint, which shall no longer have any force or effect. Atari answer due 12/20/2010; Infogrames Entertainment et al answer due 12/20/2010; Marc Ecko Enterprises, et al answer due 12/20/2010; Marc Ecko Unltd. answer due 12/20/2010; Microsoft answer due 12/20/2010; Show & Prove LLC answer due 12/20/2010; Sony Computer Entertainment of America LLC answer due 12/20/2010; Sony Corporation et al answer due 12/20/2010. (Signed by Magistrate Judge Debra C. Freeman on 11/10/2010) (lnl) (Entered: 11/10/2010)
12/16/2010	18	STIPULATION AND ORDER: Now therefore, it is hereby stipulated and agreed by and between Plaintiff, pro se, and the undersigned attorneys, as counsel for Defendant Show and Prove, LLC. as follows: (a) The last date for all served Defendants to answer, move or otherwise respond to the Second Amended Complaint shall be January 20, 2011. So Ordered (Signed by Magistrate Judge Debra C. Freeman on 12/16/2010) (js) (Entered: 12/16/2010)
01/20/2011	19	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Atari S.A. as Corporate Parent of Atari, Inc.; Sony Corporation of America, Sony Corporation is Corporate Parent of Sony Computer Entertainment America LLC; Foundation 9 Entertainment, Inc. is corporate parent of Backbone Entertainment (sued herein as Foundation 9 Entertainment). Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm)(mro) (Entered: 01/24/2011)
01/20/2011	20	MOTION to Dismiss the Second Amended Complaint. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm)(mro) (Entered: 01/24/2011)
01/20/2011	21	MEMORANDUM OF LAW in Support re: 20 Motion to Dismiss. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm) (mro) (Entered: 01/24/2011)
01/20/2011	22	DECLARATION of Leigh Ann Lucero in Support re: 20 MOTION to Dismiss. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm) (mro) (Entered: 01/24/2011)
01/20/2011	23	DECLARATION of Stuart Knowles in Support re: 20 MOTION to Dismiss. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm) (mro) (Entered: 01/24/2011)
01/20/2011	24	DECLARATION of Kristen J. Keller in Support re: 20 MOTION to Dismiss. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm) (mro) (Entered: 01/24/2011)
01/20/2011	25	DECLARATION of Marc Fernandez in Support re: 20 MOTION to Dismiss. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm) (mro) (Entered: 01/24/2011)
01/20/2011	26	DECLARATION of Jeremy S. Goldman in Support re: 20 MOTION to Dismiss. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (Received in the night deposit box on 1/20/11 at 7:46 pm) (mro) (Entered: 01/24/2011)
01/20/2011	27	MOTION TO FILE A THIRD AMENDED COMPLAINT. Document filed by Daniel Reece.(mbe) (Entered: 01/28/2011)
02/07/2011	28	MEMORANDUM OF LAW in Opposition to plaintiff's motion for leave to amend plaintiff's Second Amended Complaint. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC. (mbe) (Entered: 02/09/2011)
02/07/2011	29	DECLARATION of Marc Ecko. Document filed by Show & Prove LLC. (mbe) (Entered: 02/09/2011)
03/01/2011	31	ENDORSED LETTER addressed to Magistrate Judge Debra C. Freeman from Daniel Reece re: agreement that the last day for an answer to be filed in response to the defendants Motion to Dismiss the Second Amended Complaint shall be 3/7/2011. ENDORSEMENT: Approved. (Responses due by 3/7/2011) (Signed by Magistrate Judge Debra C. Freeman on 3/1/2011) (jar) Modified on 3/14/2011 (jar). (Entered: 03/01/2011)
03/07/2011	32	AFFIRMATION of Daniel Reece in Opposition re: 20 MOTION to Dismiss. Document filed by Daniel Reece. (mro) (Entered: 03/09/2011)
03/07/2011	33	REPLY AFFIRMATION of Daniel Reece in Support re: 27 MOTION TO FILE A THIRD AMENDED COMPLAINT. Document filed by Daniel Reece. (mro) (Entered: 03/09/2011)
03/17/2011	34	REPLY MEMORANDUM OF LAW in Support of Defendants Motion to Dismiss Plaintiff's Second Amended Complaint. Document filed by Atari, Foundation 9 Entertainment, Infogrames Entertainment et al, Marc Ecko Enterprises, et al, Marc Ecko Unltd., Microsoft, Show & Prove LLC, Sony Computer Entertainment of America LLC, Sony Corporation et al. (mbe) (Entered: 03/21/2011)
07/11/2011	35	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and 30/60 Days Amended Complaint, served. Foundation 9 Entertainment served on 10/1/2010, answer due 10/22/2010. Service was accepted by Ashley Edwards, Studio Coordinator. Document filed by Daniel Reece. (ab) (Entered: 07/11/2011)

08/19/2011	<u>36</u>	REPORT AND RECOMMENDATIONS re: 20 MOTION to Dismiss filed by Infogrames Entertainment et al, Show & Prove LLC, Sony Computer Entertainment of America LLC, Foundation 9 Entertainment, Atari, Microsoft, 27 MOTION TO FILE A THIRD AMENDED COMPLAINT filed by Daniel Reece. Defendants' motion to dismiss the Second Amended Complaint (Dkt. 20) be granted, Reeces motion for leave to file a third amended complaint (Dkt. 27) be denied, and that this matter be closed on the Docket of the Court. Objections to R&R due by 9/5/2011 (Signed by Magistrate Judge Debra C. Freeman on 8/19/2011) Copies Mailed By Chambers. (fl) (Entered: 08/19/2011)
09/09/2011	<u>37</u>	ORDER re <u>36</u> Report and Recommendations: The Court hereby adopts the Report and Recommendation, and, for the reasons therein, dismisses the complaint with prejudice. Clerk to enter judgment. (Signed by Judge Jed S. Rakoff on 9/7/2011) (dj) Modified on 9/9/2011 (dj). (Entered: 09/09/2011)
09/09/2011		Transmission to Judgments and Orders Clerk. Transmitted re: <u>37</u> Order Adopting Report and Recommendations, to the Judgments and Orders Clerk. (dj) (Entered: 09/09/2011)
09/09/2011	<u>38</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated September 7, 2011, the Report is adopted and the complaint is dismissed with prejudice. (Signed by Clerk of Court Ruby Krajick on 9/9/11) (Attachments: # <u>1</u> Notice of Right to Appeal)(dt) (Entered: 09/12/2011)
09/09/2011		Mailed notice of Right to Appeal re: <u>38</u> Clerk's Judgment, to Pro Se Litigant(s): Daniel Reece and to Attorney(s) of Record: Jessie F. Beeber, Jeremy Seth Goldman. (eef) (Entered: 09/15/2011)
09/09/2011	<u>39</u>	OBJECTION to <u>36</u> Report and Recommendations Document filed by Daniel Reece. (tro) (Entered: 09/19/2011)
09/12/2011		Transmission to Docket Assistant Clerk. Transmitted re: <u>38</u> Clerk's Judgment, to the Docket Assistant Clerk for case processing. (dt) (Entered: 09/12/2011)
09/13/2011		Mailed notice to Register of Copyrights to report the termination of this action. (dt) (Entered: 09/13/2011)
10/07/2011	<u>40</u>	MOTION for relief from the judgment to dismiss the second amended complaint with prejudice and to deny a third amended complaint and to dismiss suit entirely. Document filed by Daniel Reece.(mro) (Entered: 10/12/2011)
10/07/2011	<u>41</u>	NOTICE OF APPEAL from <u>38</u> Clerk's Judgment, <u>37</u> Order Adopting Report and Recommendations. Document filed by Daniel Reece. (tp) (Entered: 10/13/2011)
10/07/2011		Appeal Remark as to <u>41</u> Notice of Appeal filed by Daniel Reece. NO FEE IFP GRANTED 4/5/2010. (tp) (Entered: 10/13/2011)
10/13/2011		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>41</u> Notice of Appeal. (tp) (Entered: 10/13/2011)
10/13/2011		Transmission of Notice of Appeal to the District Judge re: <u>41</u> Notice of Appeal. (tp) (Entered: 10/13/2011)